

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Donald Capak	Team: Squad #2	CCRB Case #: 201408617	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/17/2014 7:00 PM	Location of Incident: In the rear of § 87(2)(b) and the 88th Precinct stationhouse	Precinct: 88	18 Mo. SOL 2/17/2016	EO SOL 2/17/2016	
Date/Time CV Reported Thu, 08/21/2014 2:11 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/21/2014 2:11 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Paul Martin	02288	938946	NARCBBN
2. SGT Alexandru Anghel	00240	934403	NARCBBN
3. DT3 James Baez	07011	923599	NARCBBN
4. DT3 John Slavinsky	2046	939476	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A . DT3 John Slavinsky	Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. John Slavinsky stopped § 87(2)(b).	A . § 87(2)(g)
B . DT3 John Slavinsky	Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. John Slavinsky searched § 87(2)(b).	B . § 87(2)(g)
C . DT3 John Slavinsky	Discourtesy: At § 87(2)(b) in Brooklyn, Det. John Slavinsky spoke rudely to § 87(2)(b).	C . § 87(2)(g)
D . DT3 John Slavinsky	Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. John Slavinsky searched § 87(2)(b).	D . § 87(2)(g)
E . DT3 James Baez	Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. James Baez searched the car in which § 87(2)(b) was an occupant.	E . § 87(2)(g)
F . SGT Alexandru Anghel	Discourtesy: At the 88th Precinct stationhouse, Sgt. Alexandru Anghel spoke rudely to § 87(2)(b).	F . § 87(2)(g)
G . DT3 Paul Martin	Abuse of Authority: At the 88th Precinct stationhouse, Det. Paul Martin refused to provide his name and shield number to § 87(2)(b).	G . § 87(2)(g)
H . DT3 James Baez	Other: Det. James Baez intentionally made a false official statement when he stated that he observed § 87(2)(b) make a hand to hand transaction at § 87(2)(b) in Brooklyn.	H . § 87(2)(g)
I . DT3 John Slavinsky	Other: Det. John Slavinsky intentionally made a false official statement when he stated that § 87(2)(b) dropped narcotics to the ground prior to their recovery.	I . § 87(2)(g)

### Case Summary

On August 17, 2014 Det. John Slavinsky of Brooklyn North Narcotics stopped and searched § 87(2)(b) (Allegation A and B). Afterwards, Det. Slavinsky allegedly spoke rudely to § 87(2)(b) (Allegation C). After arresting § 87(2)(b) the officers interacted with § 87(2)(b) who was waiting in § 87(2)(b)'s vehicle. Det. Slavinsky allegedly asked § 87(2)(b) to exit the vehicle and searched her purse and wallet (Allegation D) while Det. Baez of Brooklyn North Narcotics searched § 87(2)(b)'s vehicle (Allegation E). Once back the 88<sup>th</sup> Precinct stationhouse, Sgt. Alexandru Anghel of Brooklyn North Narcotics allegedly spoke rudely to § 87(2)(b) about § 87(2)(b) (Allegation F) while Det. Martin of Brooklyn North Narcotics refused to provide his name and shield to § 87(2)(b) (Allegation G) (BR 01 and 02). The investigation determined that Det. Baez and Det. Slavinsky both were believed to have provided false official statements during the CCRB interviews and were cited for other misconduct (Allegation H and I) § 87(2)(b) was arrested for criminal possession of a controlled substance. § 87(2)(b) was not arrested in regard to this case. The case was originally assigned to Inv. Yu on August 20, 2014, reassigned to Inv. Dempsey on September 11, 2014 and reassigned again to the undersigned on April 20, 2014.

### Mediation, Civil and Criminal Histories

This case was not eligible for mediation due to § 87(2)(b)'s arrest. A Notice of Claim search for § 87(2)(b) was requested on March 24, 2015 and no records were found (BR 15). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) (BR 12).
- This is the first complaint filed by § 87(2)(b) (BR 11).
- Det. Paul Martin has been a member for the NYPD for nine years and has no substantiated allegations against him (see officer history).
- Sgt. Alexandru Anghel has been a member of the NYPD for ten years and has no substantiated allegations against him (see officer history).
- Det. John Slavinsky has been a member of the NYPD for nine years and has two substantiated allegations against him. In case # 200901128, Det. Slavinsky had retaliatory arrest and a search substantiated against him. The NYPD's penalty was instruction (see officer history).
- Det. § 87(2)(b) Baez has been a member of the NYPD for 15 years and has four substantiated allegations against him. In case # 200208495 Det. Baez had force, a question and/or stop, a frisk and/or search, discourtesy and § 87(4-b), § 87(2)(g) substantiated against him. The NYPD's penalty was Command Discipline –B (see officer history).

### Findings and Recommendations

#### Allegations Not Pleaded

- Force: § 87(2)(b) alleged that Det. Slavinsky grabbed him by the shoulder and wrist and pushed him up against a vehicle. With the help of Det. Baez, the officers grabbed

both of § 87(2)(b) Desiero's hands and handcuffed him. The alleged force is considered appropriate to effect an arrest (BR 02).

#### **Explanation of Subject Officer Identification**

Det. Slavinsky and Det. Baez confirmed that Det. Slavinsky followed and arrested § 87(2)(b) and later spoke to § 87(2)(b) outside of the prisoner van. § 87(2)(b) alleged that the officer who searched her purse and wallet was a white male with red hair and red goatee. Det. Slavinsky and Det. Baez confirmed that it was Det. Slavinsky who interacted with § 87(2)(b) near § 87(2)(b). Furthermore, § 87(2)(b) who was inside the prisoner van with § 87(2)(b) provided a phone statement which indicated that the two officers who were driving the prisoner van did not have red hair. § 87(2)(b) described one of the officers as being a white male, standing approximately 5'8" tall, weighing 190 pounds with light brown hair, which accurately matches Det. Slavinsky. Therefore; **Allegations A, B, C and D** are pleaded against Det. Slavinsky.

§ 87(2)(b) alleged that while an officer searched her purse and wallet, the officer's partner searched § 87(2)(b)'s vehicle. Det. Baez confirmed that he was Det. Slavinsky's partner and was present for Det. Slavinsky's interaction with § 87(2)(b) and that there were no other officers at the scene. Therefore **Allegation E** is pleaded against Det. Baez.

Once back at the 88<sup>th</sup> Precinct stationhouse, § 87(2)(b) alleged in his phone statement that PO "Angel" interacted with him, stated that he was in charge and told § 87(2)(b) that someone could come and retrieve § 87(2)(b)'s property. In § 87(2)(b)'s verified statement, he alleged that the same officer told him, "If you don't calm her the fuck down, she came in here like a nut, I'm not going to give her shit." Sgt. Anghel confirmed that he interacted with § 87(2)(b) at the 88<sup>th</sup> Precinct stationhouse and allowed him to call § 87(2)(b) to come and pick up his property but denied using profanity towards § 87(2)(b). Therefore, **Allegation F** is pleaded against him.

Both § 87(2)(b) and § 87(2)(b) alleged that a white male officer with red hair and a red goatee or beard refused to give § 87(2)(b) his name and shield number. Det. Martin, who was assigned as the arresting officer, confirmed that he interacted with § 87(2)(b) at the 88<sup>th</sup> Precinct stationhouse, and matches the description provided by § 87(2)(b) and § 87(2)(b). Therefore, **Allegation G** is pleaded against him.

#### **Recommendations**

**Allegation A - Abuse of Authority - At § 87(2)(b) in Brooklyn, Det. John Slavinsky stopped § 87(2)(b)**

**Allegation B – Abuse of Authority - At § 87(2)(b) in Brooklyn, Det. John Slavinsky searched § 87(2)(b)**

§ 87(2)(b) alleged that after speaking with some of his friends, he noticed Det. Slavinsky exit a van and follow him through a NYCHA complex, down an alleyway, through a park and onto § 87(2)(b). Det. Slavinsky grabbed § 87(2)(b) by his wrist, pushed him up against a vehicle and placed his hands inside § 87(2)(b)'s front and back pockets. Det. Baez exited from the driver's side of the van and assisted Det. Slavinsky with handcuffing § 87(2)(b). Det. Baez went into § 87(2)(b)'s front and rear pockets and pulled glassine bags from one of his pockets (BR 02).

Det. Slavinsky stated that after observing § 87(2)(b) enter § 87(2)(b) for a minute to a minute and a half, exit and then remove a small object from his front right pocket and look at it, he followed him. After being followed for two to three blocks, § 87(2)(b) saw Det. Slavinsky, removed the small object from his pocket and dropped it on the ground. Det. Slavinsky picked up the object, which he determined to be heroin and continued to follow § 87(2)(b) for another block before calling Det. Baez and indicating the direction that § 87(2)(b) was walking. As Det. Slavinsky approached § 87(2)(b) from the back, Det. Baez approached from the front and § 87(2)(b) placed his hands behind his back (BR 03).

In the supporting deposition paperwork, Det. Slavinsky stated that he recovered the heroin from § 87(2)(b)'s pants pockets (BR 18). In the Misdemeanor Narcotics Possession Fact Sheet Det. Slavinsky also states that the heroin was recovered from § 87(2)(b)'s pants pocket and that he was observed in possession of a quantity of a controlled substance, but makes no note of observing a hand to hand transaction at § 87(2)(b) (BR 19). In addition, Det. Slavinsky also states in the Criminal Court Complaint that § 87(2)(b) was observed in possession of a quantity of a controlled substance that was recovered from his pants pockets and makes no note of observing a hand to hand transaction at § 87(2)(b) (BR 07). Furthermore, the arrest report also only states that § 87(2)(b) was observed in possession of a controlled substance (BR 09).

In his interview, Det. Baez stated that he and Det. Slavinsky were 30 feet away in their prisoner van and observed § 87(2)(b) exchange U.S. currency for a small object with an individual in front of § 87(2)(b). § 87(2)(b) did not enter § 87(2)(b) at any time. The interaction lasted only seconds, resulting in § 87(2)(b) walking away from the location. Det. Slavinsky exited the prisoner van and followed § 87(2)(b) because both he and Det. Baez believed the small item was narcotics. Det. Baez followed Det. Slavinsky in the prisoner van while Det. Slavinsky followed § 87(2)(b) on foot. § 87(2)(b) noticed Det. Slavinsky and dropped the small object to the ground and continued walking. Det. Slavinsky stopped and handcuffed § 87(2)(b) immediately. Det. Slavinsky recovered an unknown number of glassine envelopes containing heroin (BR 04).

The investigation concluded that Det. Baez and Det. Slavinsky observed § 87(2)(b) approach § 87(2)(b) which is not only a known narcotics location, but also a location that Det. Baez has an ongoing case on. After observing § 87(2)(b) enter § 87(2)(b) and exit, the officers followed and stopped § 87(2)(b) as they suspected he had purchased narcotics. Det. Slavinsky searched § 87(2)(b) and removed glassine envelopes of heroin from § 87(2)(b)'s pockets. The heroin recovered from § 87(2)(b) ultimately led to his arrest. The investigation determined, based on testimony and documents, that no hand to hand occurred and § 87(2)(b) did not drop the narcotics to the ground.

An officer may forcibly stop or pursue an individual if they have reasonable suspicion that the person being stopped has committed or is about to commit a crime. People v. De Bour, 40 N.Y.2d 210 (1976). Furthermore, a police officer may arrest and take into custody a person when he has probable cause to believe that person has committed a crime, or offense in his presence (*CPL 140.10*) (BR 13). Mere presence inside a NYCHA building does not provide reasonable suspicion of a crime. People v. Ortiz, 2011 NY Slip Op 51036U (Crim. Ct. Kings Cty., 2011) (BR 21). Observing a person exit a NYCHA building does not provide reasonable suspicion of a crime or even an objective, credible reason to approach a person. People v. Almonte, 30 Misc. 3d 1234A (Sup. Ct., Bronx Co. 2011) (BR 22).

§ 87(2)(g)

**Allegation C – Discourtesy: At § 87(2)(b) in Brooklyn, Det. John Slavinsky spoke rudely to § 87(2)(b)**

**Allegation D – Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. John Slavinsky searched § 87(2)(b)**

**Allegation E- Abuse of Authority: At § 87(2)(b) in Brooklyn, Det. § 87(2)(b) Baez searched the car in which § 87(2)(b) was an occupant.**

**Allegation G – Abuse of Authority: At the 88th Precinct stationhouse, Det. Paul Martin refused to provide his name and shield number to § 87(2)(b)**

It is undisputed that Det. Slavinsky and Det. Baez interacted with § 87(2)(b) and § 87(2)(b) at § 87(2)(b). It is undisputed that Det. Martin interacted with § 87(2)(b) at the 88<sup>th</sup> Precinct stationhouse.

In § 87(2)(b)'s verified statement, he alleged that, while being handcuffed, Det. Slavinsky stated that he did not give a “fuck” about his arm and, while speaking with § 87(2)(b), told him to “Shut the fuck up” from outside the prisoner van. In § 87(2)(b)'s verified statement, she did not allege any profanity being used during her and Det. Slavinsky's conversation at § 87(2)(b)'s vehicle (BR 02).

§ 87(2)(b) alleged in both her phone statement and verified statement that after being asked to exit § 87(2)(b)'s vehicle, Det. Slavinsky searched her bag and wallet. In § 87(2)(b)'s verified statement she also alleged that while Det. Slavinsky went through her purse and wallet, Det. Baez searched § 87(2)(b)'s vehicle. Back at the 88<sup>th</sup> Precinct stationhouse, § 87(2)(b) allegedly asked an officer with red hair and a red goatee for his name and shield number, to which he did not provide an answer (BR 01).

Det. Slavinsky and Det. Baez both confirmed that Det. Slavinsky interacted with § 87(2)(b) outside § 87(2)(b)'s vehicle but denied that any officer ever spoke rudely to § 87(2)(b). Both officers also denied ever searching § 87(2)(b)'s purse or wallet or § 87(2)(b)'s vehicle (BR 03 and 04). While at the stationhouse, Sgt. Anghel confirmed that he was asked by § 87(2)(b) for only his name and shield, which he provided to her. Sgt. Anghel denied hearing § 87(2)(b) request another officer for his name or shield number (BR 05). Det. Slavinsky, Det. Baez and Det. Martin all denied hearing § 87(2)(b) ask any officer for their name or shield number (BR 03, 04 and 06).

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Discourtesy: At the 88<sup>th</sup> Precinct stationhouse, Sgt. Alexandru Anghel spoke rudely to § 87(2)(b)**

It is undisputed that Sgt. Anghel interacted with § 87(2)(b) at the 88<sup>th</sup> Precinct stationhouse.

§ 87(2)(b) alleged that Sgt. Anghel came into the holding cell area to retrieve him because § 87(2)(b) had arrived to pick up his property. Sgt. Anghel stated “If you don’t calm her the fuck down. She came in here like a nut, I’m not going to give her shit” to § 87(2)(b) during this interaction (BR 02).

§ 87(2)(b) was present in the holding cell area when the officers came back to speak to § 87(2)(b) about § 87(2)(b). § 87(2)(b) said that officers told § 87(2)(b) that § 87(2)(b) was being loud and vociferous to which § 87(2)(b) told them that she has an illness that makes her that way. § 87(2)(b) did not state that officers used any profanity towards § 87(2)(b) and did not make any additional statements to him (BR 10).

Sgt. Anghel denied ever using any profanity while speaking to § 87(2)(b) (BR 05).

§ 87(2)(g)

**Allegation H - Other Misconduct- Det. § 87(2)(b) Baez intentionally made a false official statement when he stated that he observed § 87(2)(b) make a hand to hand transaction at § 87(2)(b) in Brooklyn.**

On May 14, 2015 Det. Baez was interviewed at the CCRB. During his CCRB interview, Det. Baez was asked, in his own words, to describe what had happened on August 17, 2014 at 7:00 p.m. Det. Baez began by stating that he and Det. Slavinsky were opposite § 87(2)(b) approximately 30 feet away, in their prisoner van. Det. Baez continued with his version of the events and stated, at 2:20, the following:

“We saw an individual with U.S. currency in his hand walking up towards the building § 87(2)(b) exchange words with another individual that came out in front of the building, exchange US currency for an object and walked off.” (BR 04).

§ 87(2)(g)

§ 87(2)(b) In Det. Slavinsky’s testimony, he stated that § 87(2)(b) entered § 87(2)(b) for a minute to a minute and half. Upon exiting, Det. Slavinsky observed § 87(2)(b) remove a small object from his front right pocket, examine it and then walk away from the location. In the Misdemeanor Narcotics Possession Facts Sheet it states, “Is the defendant a buyer in an observation sale?” which is marked off as “No”, further supporting the fact that a hand to hand transaction was never observed (BR 19). Furthermore, the Supporting Deposition, Criminal Court Complaint, and Arrest Report make no note of observing a hand to hand

transaction, a crucial detail in regards to the actions performed by Det. Baez and Det. Slavinsky (BR 18, 08 and 07).

Patrol Guide Procedure 203 -08 states that intentionally making false official statements is prohibited and will be subject to disciplinary action (BR 14). It must be proven that the statement was made, that it was material and that it was intentionally false. Dep't of Correction v. Centeno, OATH index No. 2031/04, pg. 4 (2005) (BR 20).

§ 87(2)(g)

**Allegation I - Other Misconduct- Det. John Slavinsky intentionally made a false official statement when he stated that § 87(2)(b) dropped narcotics to the ground prior to their recovery.**

On May 12, 2015, Det. Slavinsky was interviewed at the CCRB. During his interview, Det. Slavinsky was asked, in his own words, to describe what had happened on August 17, 2014 at 7:00 p.m. After observing § 87(2)(b) exit § 87(2)(b) and making the decision to follow him on foot, Det. Slavinsky stated the following at 2:58:

“Once he realized I was following him, he dropped some narcotics to the ground. I recovered the narcotics, seen what it was, I called over my partner on the phone. I continued to follow him for approximately a block or so, then once he seen my partner jump out, I was right behind him. I told him who we were and placed him under arrest.”

At 6:27 in Det. Slavinsky’s CCRB testimony, the following conversation occurred between the undersigned and Det. Slavinsky:

Inv. Capak: “He § 87(2)(b) had noticed you (Det. Slavinsky) following him at that time?”

Det. Slavinsky: “Yeah.”

Inv. Capak: “And that’s when he dropped the narcotics?”

Det. Slavinsky: “Yeah.”

Inv. Capak: “Did you see where he had pulled them from and dropped it or...”

Det. Slavinsky: “He had them in his pocket. He had reached - in his right front pants pocket he had it.

Inv. Capak: “Ok and then he dropped it to the floor and continued walking?”

Det. Slavinsky: “Yes.”

Inv. Capak: “Ok and then at that point you had followed up behind him and that’s when you picked up the narcotics?”

Det. Slavinsky: “Yes.”

At 7:32, Det. Slavinsky was asked to describe how the heroin he had recovered from the ground was packaged. Det. Slavinsky was shown the Field Test Report and stated the following:

“Glassine envelope.”

When asked if anything else stood out about the packaging, Det. Slavinsky stated the following at 8:00:

“He did drop five of them, so it was like in a little bundle.”

§ 87(2)(g) the Misdemeanor Narcotics Possession Facts Sheet, the Criminal Court Complaint and the Support Deposition, § 87(2)(g) all stated that the narcotics were recovered from § 87(2)(b) s pants pocket. Additionally, the Supporting Deposition and Misdemeanor Narcotics Possession Facts Sheet describe the narcotics that were recovered from § 87(2)(b) s pants pocket as 5 glassine envelopes of heroin. In § 87(2)(b) s testimony, he stated that after being stopped by Det. Slavinsky, Det. Baez searched his pockets and recovered heroin. On the Misdemeanor Narcotics Possession Facts Sheet, which was filled out by Det. Slavinsky himself, it states, “7. From where were the drugs recovered?” Det. Slavinsky wrote on the line provided next to this question, “Defendants pants pocket”. Additionally, the Criminal Court Complaint states, “The informant observed the defendant in possession of a quantity of heroin which informant recovered from defendant’s pants pocket.”

Patrol Guide Procedure 203 -08 states that intentionally making false official statements is prohibited and will be subject to disciplinary action (BR 14). It must be proven that the statement was made, that it was material and that it was intentionally false. Dep’t of Correction v. Centeno, OATH index No. 2031/04, pg. 4 (2005) (BR 20).

§ 87(2)(g) [REDACTED]

[REDACTED]



Team: \_\_\_\_\_

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date